

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service determines a plant, *Styrax texana* (Texas snowbells), to be an endangered species under the authority contained in the Endangered Species Act of 1973, as amended. This plant is endemic to Edwards, Real, Kimble, and possibly Val Verde Counties, Texas. These known populations are currently very vulnerable due to low numbers and lack of reproduction. Populations are possibly threatened by cattle and deer browsing. This action implements the protection provided by the Endangered Species Act of 1973, as amended, for *Styrax texana*.

DATE: The effective date of this rule is November 13, 1984.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Region 2, 421 Gold Avenue, SW., Room 407, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Peggy Olwell, Botanist, Region 2, Endangered Species Staff (see **ADDRESS** above) (505/766-3972), or Mr. John L. Spinks, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service, Washington D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:**Background**

Styrax texana (Family Styracaceae) was first discovered on July 4, 1940, by V.L. Cory, and was described by him in 1943. This species grows as a shrub up to 3 meters high. The bark is smooth, the leaf blades are rounded, 4-8 centimeters long, about as broad as they are long, with entire to almost entire margins, bright green above, and silvery below from dense short soft hairs. Flowers are in clusters of 3-5, showy and white. Flowering occurs in April and May. Reproduction has not been studied. It is of concern, however, that there are no known seedlings or saplings, indicating a lack of recent reproduction.

Styrax texana grows in crevices in limestone cliffs along stream channels in juniper-oak savannas on the Edwards Plateau, and in creosote bush shrub in the eastern Trans-Pecos basins. The dominant associated trees are *Quercus texana*, *Juniperus ashei*, and *Fraxinus texensis*. Dominant associated shrubs are *Garrya ovata*, *Berberis trifoliolata*, and *Bumelia lanuginosa* var. *texana* (Mahler, 1981).

A total of 25 individuals of *Styrax texana* are presently known to exist. Seven plants have been collected or reported from along Polecat, Cedar, and

Little Hackberry Creeks in Edwards County, and 14 from along the East Prong of the Neceus River in Real County. Eight plants have been reported from Kimble County, only four of which could be relocated recently (B. Simpson, Texas A&M, pers. comm., 1982). Plants also were reported, but not verified, to be on the Horace Faucett Ranch in Val Verde County (Mahler, 1981). One additional plant had been reported from Edwards County, but was not located by Mahler.

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) of the 1973 Act (section 4(b)(3)(A) now), and of its intention thereby to review the status of the plant species included within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. *Styrax texana* was included in this proposal. Comments received in relation to the 1976 proposal were summarized in the April 26, 1978, **Federal Register** publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all listing proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice of withdrawal of the portion of the June 16, 1976, proposal that has not been made final, along with four other proposals which had expired (44 FR 70796). *Styrax texana* was included thereafter in the list of plants under review for threatened or endangered classification published as a notice in the December 15, 1980, **Federal Register** (45 FR 82480). A 1981 status report (Mahler) and investigations carried out by Service botanists since December 1979 have now provided new biological data that form the basis for the October 11, 1983, proposed rule (48 FR 46086) and for the present determination of this species as endangered. The new data include information on the low number of plants, the lack of reproduction in the species, its distribution, and ownership of the land on which the plants occur.

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Final Rule To Determine *Styrax Texana* (Texas Snowbells) To Be an Endangered Species**

AGENCY: Fish and Wildlife Service, Interior.

They lead to the conclusion that *Styrax texana* is an endangered species.

Summary of Comments and Recommendations

In the October 11, 1983, proposed rule (48 FR 46086) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the San Antonio, Texas, *Express-News* on October 28, 1983, which invited general public comment. A total of seven comments were received on the proposal, one each from the Texas Parks and Wildlife Department, the U.S. Soil Conservation Service, the National Park Service, the International Union for the Conservation of Nature and Natural Resources, a professional botanist, and a landowner on whose property *Styrax texana* occurs. No public hearing was requested or held.

The Texas Forest Service, the U.S. Soil Conservation Service, and the National Park Service all commented that they could furnish no additional information on the species. In addition, the Texas Forest Service commented that if the species is subject to browsing by cattle and deer, then there is little that can be done to protect it. It suggested that such species should be established in protected areas such as arboreta.

Comments in support of the proposed listing of *Styrax texana* were submitted by the Texas Parks and Wildlife Department, the International Union for the Conservation of Nature and Natural Resources, and Mr. Harold Beaty, a professional botanist and leader of the Texas Plant Recovery Team.

One of the landowners on whose property *Styrax texana* is located requested more specific information as to the location of the plants on his lands, and offered his cooperation in protecting the plants. The Service arranged for a botanist familiar with this species to contact this landowner and provide the requested information.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Styrax texana* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531

et seq.) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate the 1982 Amendments—see proposal at 48 FR 36062, August 8, 1983) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Styrax texana* Cory (Texas snowbells) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Currently, *Styrax texana* is known to exist in three Texas counties: Real, Edwards, and Kimble. One historical report from Val Verde County has not been reconfirmed. In 1982, 25 plants were known to exist. Most of the sites where the plants occur are in private ownership, but one site is a State-owned roadside park. Present maintenance procedures in the park are not harming the plants and the State of Texas has no plans to change these procedures. However, there is no protection for the species at this site. Two of the private landowners are amenable to protecting the plants; however, there is no current planning for the species at any of the sites. At present, a known threat to the habitat is through natural erosion of a stream bank, which will probably soon eliminate one precariously located plant. Such erosion, both gradual and massive due to flooding, is a potential problem for all of these plants, and may be a threat to the species' survival in the absence of seedlings.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

At present, the taking of plants for scientific study is minimal; however, due to the small number of plants, collection should be prohibited or closely controlled. No taking prohibitions, either State or Federal, currently exist for the plants on private lands. *Styrax texana* is a shrub with attractive foliage and flowers and could be sought for horticultural purposes.

C. Disease or Predation

It has been suggested that the lack of seedlings and young plants may be due to browsing by cattle and/or deer. No data currently exist to confirm this suggestion, and additional studies are needed.

D. The Inadequacy of Existing Regulatory Mechanisms

There is currently no State or Federal protection for this plant. However, once

this species is added to the Federal list to endangered species, Chapter 88 of the Texas Parks and Wildlife Code requires that it also be added to the Texas list of endangered species.

E. Other Natural or Manmade Factors Affecting its Continued Existence

The lack of reproduction will affect the species' survival. The small number of plants tends to make the species vulnerable to stress from natural or human-related factors and to intensify any adverse effects on the habitat.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the indicated action is to list *Styrax texana* as endangered. The very small number of plants (25) in existence, their apparent complete lack of reproduction, and the lack of any protection for them make endangered status, rather than threatened status, appropriate for this species.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Styrax texana* at this time because of the potential threat to the species if its habitat were publicly identified. Publication of critical habitat maps in the **Federal Register** is required when critical habitat is designated. This publicity could lead to collection of the plants, and thus severely impact the populations due to the low known number of plants (25). Such publicity could also lead to habitat destruction during collection.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection

required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species. If a Federal action may affect a listed species, the responsible Federal agency must enter into consultation with the Service. Section 7 involvement in the present listing is expected to be minimal, as *Styrax texana* is found only on private and State lands, and there are no known Federal activities or involvement planned for the areas in which the plants are located.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Styrax texana*, all trade prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. International and interstate commercial trade in *Styrax texana* is not known to exist. It is not anticipated that many trade permits involving plants of wild origin would ever be issued since this plant is not common in the wild and is not presently in cultivation.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. This new prohibition now applies to *Styrax texana*. Permits for exceptions to this prohibition are available through section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations

implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. This species is not known from Federal lands, so no effect from this prohibition is expected.

Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903). It is anticipated that few permits for this species will ever be requested.

The Service will review this species to determine whether it should be placed upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through section 8(A)(e) of the Act, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

The U.S. Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Cory, V.L. 1943. The genus *Styrax* in central and western Texas. *Madrono* 7:110-115.

Mahler, W.F. 1981. Status report: *Styrax texana*. Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, New Mexico. 9 pp.
Vines, R.A. 1960. Trees, shrubs, and woody vines of the Southwest. University of Texas Press. Austin. xii + 1104 pp.

Author

The primary author of this final rule is Ms. Peggy Olwell, Endangered Species Staff, Region 2, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93-205, 87 Stat 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order by family, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

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Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
•	•	•	•	•	•	
Styracaceae—Styrax family:						
<i>Styrax texana</i>	Texas snowbells	U.S.A. (TX)	E		NA	NA

Dated: September 24, 1984.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

(FR Doc. 84-26787 Filed 10-11-84; 8:45 am)

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